

Part C – Decision Under Appeal

The decision under appeal is the reconsideration decision (the “Reconsideration Decision”) of the Ministry of Social Development and Poverty Reduction (the “Ministry”), dated July 15, 2024. In the Reconsideration Decision, the Ministry determined that the Appellant was not eligible for designation as a Person with Disabilities (“PWD”) under section 2 of the *Employment and Assistance for Persons with Disabilities Act*.

The Ministry was not satisfied that:

- the Appellant had a severe physical or mental impairment;
- in the opinion of a prescribed professional, the Appellant’s impairment directly and significantly restricted his ability to perform daily living activities either continuously or periodically, for extended periods; and
- as a result of such restrictions, the Appellant requires help to perform those activities.

The Ministry also determined that the Appellant was not among the prescribed classes of persons eligible for PWD on alternative grounds. As there was no information or argument on this point, the Panel considers it not to be an issue in this appeal.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (the "Act") - section 2
Employment and Assistance for Persons with Disabilities Regulation (the "Regulation") – sections 2(1), 2(2), and 2.1

A full text of the above-described legislation appears at the end of Part F of this decision.

Part E – Summary of Facts

The hearing proceeded by teleconference on August 21, 2024 with the Appellant, the Appellant's wife, an interpreter for each of the Appellant and the Appellant's wife, and a representative of the Ministry in attendance.

The Appellant is an applicant for designation as a PWD.

The information before the Ministry at the time of the Reconsideration Decision included the following:

- letter from the Ministry to the Appellant, dated June 4, 2024, denying the Appellant's application for the PWD designation;
- the Ministry's PWD denial decision summary, dated June 4, 2024, which determined that the Appellant had not satisfied the Ministry that:
 - he had a severe physical or mental disability;
 - his impairment directly and significantly restricts daily living activities; and
 - that he required help with daily living activities;
- a letter from a Neurologist to the Appellant's family doctor, dated April 17, 2024 which noted the following:
 - the Appellant has had low back pain since at least 2010;
 - the Appellant's backpain radiates down to his left leg;
 - the Appellant was found to have a disc protrusion in the thoracic spine which resulted in surgery;
 - the Appellant's lower left extremity symptoms were primarily related to chronic left L5 radiculopathy;
 - conservative treatment measures were being discussed;
- an Electrodiagnostic Report, dated April 17, 2024;
- the Appellant's PWD application (the "Application"), which consisted of:
 - the Applicant Information, in the Self Report which the Appellant described his condition and the impact it was having on his function, dated May 6, 2024;
 - a Medical Report, completed by the Appellant's doctor and dated May 15, 2024;
 - an Assessor Report, also completed by the Appellant's doctor and also dated May 15, 2024;
- the Appellant's Request for Reconsideration, dated June 27, 2024, which included a handwritten note, in which the Appellant wrote that:
 - he began experiencing low back pain three years ago with numbness in his legs, and right foot drop while walking;
 - a subsequent diagnosis of spinal stenosis resulted in spinal fusion surgery and his condition worsened;

- instead of undergoing another surgery, the Appellant opted for injections which alleviated his pain slightly;
- his pain increased after moving to Canada;
- he has severe prostate issues, requiring frequent bathroom visits;
- although he has attempted a number of jobs, his low back pain precludes him from being able to carry them out; and
- his family physician in Canada agrees that he is unable to work.

The Appellant filed a Notice of Appeal on July 24, 2024, which was received on July 30, 2024.

In the “Reasons for Appeal”, the Appellant wrote that he:

- disagreed with the Reconsideration Decision;
- is barely able to walk, sit, and perform daily movements which affects his mental health; and
- he is unable to work or pay his expenses and needed help.

Neither the Appellant nor the Ministry provided any new documents prior to the hearing of the appeal.

The Application

The Self Report

The Appellant noted the following in the Self Report portion of the Application:

- he has a long history of back pain and leg pain;
- he had an MRI which revealed a herniated disc and severe spinal stenosis;
- he had surgery about two years ago and had some improvement for about two to three months post-surgery;
- he can't stand for more than fifteen minutes;
- when sitting for more than an half hour, his back pain and leg numbness gets worse;
- he had injections in the low back which provided short term pain relief but he now has pain in all positions for which he takes anti-inflammatories;
- he is waiting for an MRI for a diagnosis;
- he has been taking medication for an enlarged prostate for approximately eight years which has resulted in frequent urination; and
- due to his medical conditions (back pain, leg numbness, and enlarged prostate), he faces severe restrictions with daily living activities and is not able to perform any type of work.

The Medical Report

In Part B of the Medical Report, the Doctor diagnosed the Appellant with L5 radiculopathy, back pain, and leg numbness that has lasted for twenty years.

The Doctor confirmed, in Part C of the Medical Report, that the Appellant is suffering from chronic low back pain, lower extremity numbness and foot drop. The Appellant's symptoms preclude him from doing any activities that require sitting or standing for more than an hour. The Doctor noted that the Appellant had seen a neurologist who had diagnosed him with left L5 radiculopathy.

The Doctor also confirmed, in Part C of the Medical Report, that the Appellant has not been prescribed any medications or treatments that interfere with his ability to carry out daily living activities and does not require any prostheses or aids for his impairment.

In Part D of the Medical Report, the Doctor confirmed that the Appellant's impairment was likely to continue for two years or more and noted:

- "nerve block vs surgery pending"; and
- "further investigations such as MRI."

In Part E of the Medical Report, the Doctor described the Appellant's functional skills as:

- being able to walk 2 to 4 blocks unaided on a flat surface;
- capable of climbing 2 to 5 steps unaided;
- able to lift 2 to 7 kg; and
- tolerating sitting for less than 1 hour.

The Doctor indicated that the Appellant had no difficulties with communication or cognitive and emotional function.

The Doctor did not complete Section F (Daily Living Activities) of the Medical Report, as the Doctor had also completed the Assessor Report.

In section G (Additional Comments) of the Medical Report, the Doctor wrote:

"Due to chronic pain in back and lower extremities numbness, he has difficulty with standing/lifting more than 30 – 60 minutes. EMG (Electromyography) and neurologist report is available."

Finally, in section H (Frequency of Contact) of the Medical Report, the Doctor confirmed that the Appellant had been a patient for six months and had been seen between two and ten times.

The Assessor Report

In section B (Living Environment) of the Assessor Report, the Doctor noted that the Appellant lives with his wife and daughter.

In section C (Mental or Physical Impairment) of the Assessor Report, the Appellant was described by the Doctor as having "mobility restrictions, difficulty with sitting/standing more than 30 – 60 minutes."

The Doctor confirmed that the Appellant's ability to communicate was good for all methods (speaking, reading, writing, hearing).

With respect to mobility and physical ability, the Doctor described the Appellant as:

- independent with walking indoors;
- taking significantly longer than typical for walking indoors, climbing stairs, and standing; and
- needing continuous assistance from another person or unable to lift, carry, and hold.

The Doctor did not complete the section on the Appellant's mental or physical impairment, noting that it was not applicable.

In section D of the Assessor Report, which addresses daily living activities, the Doctor described the Appellant as:

- independent in all facets of personal care (dressing, grooming, bathing, toileting, feeding self, regulating diet, and transfers in and out of bed and on and off of chair);
- needing periodic assistance from another person in both areas of basic housekeeping (laundry and basic housekeeping);
- being independent in three areas of shopping (reading prices and labels, making appropriate choices, and paying for purchases) but needing periodic assistance from another person when it came to going to and from stores and needing continuous assistance from another person or being unable to carry purchases home);
- being independent with most daily living activities pertaining to meals (meal planning, food preparation, and safe storage of food) but needing periodic assistance from another person when it came to cooking;

- being independent with all aspects of paying rent and bills (banking, budgeting, and paying rent and bills) and medications (filling and refilling prescriptions, taking medications as directed, and safe handling and storage); and
- with respect to transportation, needing periodic assistance from another person with getting in and out of a vehicle and using public transit but being independent with using transit schedules and arranging transportation.

The Doctor also noted that the Appellant is “unable to stand/walk for more than 30 minutes.”

The Doctor described the Appellant as being fully independent in all areas of social functioning.

In section E (Assistance Provided for Applicant) of the Assessor Report, the Doctor described the Appellant as receiving help from family with respect to daily living activities.

Under Additional Information section of the Assessor Report in Section F, the Doctor noted that the Appellant had mobility restrictions and difficulty with sitting and standing for more than 30 – 60 minutes due to severe back pain.

In section G of the Assessor Report noting Approaches and Informational Sources, the Doctor noted that a neurologist assessment report, previous records, the Appellant’s wife, and neurologist were the sources of the information used to complete the Assessor Report.

Finally, the Doctor indicated, in section H (Frequency of Contact) of the Assessor Report, that the Appellant had been seen two to ten in the previous 6 months and that the services provided to the Appellant included “physical examinations, medication to control his symptoms, specialist referrals, and arranging for investigations such as imagings.”

The Hearing

The Appellant

At the hearing of the appeal, the Appellant stated that he is 64 years of age, has pain in his back and numbness in his feet. He advised the panel that he cannot lift more than two or three kilograms and can’t walk more than 100 metres. He also can’t sit for long and frequently needs to change position. The Appellant also described his prostate issues, which are being treated with medication and which he was recently advised are a result of his spinal injury. As a result of his prostate issues, he needs to use the washroom frequently.

The Appellant stated that he cannot work and was depressed. He described having suicidal ideation but that his family was not aware of this.

The Appellant noted that he had registered for an English class but that he could not stay seated for more than 30 minutes. The Appellant described having limited abilities in English. He asked if he needed to demonstrate complete paralysis in order to be considered disabled. He stated that his wife and daughter help him with his daily living activities.

The Appellant described taking seven or eight different pills each day and that he has increased his dosage within the past 10 or 15 days. He stated that the medications help if he is not moving. Once he starts to move, the numbness returns. The Appellant noted that he is afraid of undergoing surgery again as the first surgery did not help. The Appellant noted that while his medications help, they only provide temporary pain relief. He indicated that physiotherapy might also be helpful. The Appellant is currently waiting for an MRI.

In terms of his daily living activities, the Appellant stated that he can only drive to a store to shop if the drive is less than a half hour. He indicated that he performs none of the household chores and that his wife does them all. The Appellant confirmed that he is currently not using any equipment to help him but that is largely due to embarrassment. The Appellant did say that he holds the rails when he is going up and down stairs.

The Appellant described his disability as getting worse every day. Among his prescriptions, he is currently taking Gabapentin, Pregabalin, and Tamsulosin. The Appellant is also taking medication for his cholesterol. The Appellant noted that Gabapentin was prescribed after the Doctor had completed the Medical Report and the Assessor Report. The Appellant stated that Pregabalin was prescribed three months ago but is not covered by the provincial health care plan.

The Appellant's Wife

The Appellant's wife also gave evidence at the hearing. She described the Appellant as needing her help and the help of their daughter, due to his post-surgery complications. She stated that the Appellant is not capable of handling any type of task by himself and that he can only manage his pain with medication. The Appellant's wife was also aware of the Appellant's depression and concerned about it.

The Appellant's wife noted that she is needed to help him up from lying down and with getting up and down stairs. She also helps with bathing and most other daily living activities.

She stated that the Appellant needs help with almost everything he does and that she and her daughter help the Appellant with his daily living activities unless they are not around to help him.

The Ministry

The Ministry stated that the Appellant had met the first two criteria under section 2 of the *Act* but not the final three. Namely, the Appellant had not demonstrated that he has a severe mental or physical impairment that directly and significantly restricts his ability to perform daily living activities continuously or periodically for extended periods and requires help as a result of those restrictions.

On the issue of severity, the Ministry noted that the Appellant has not been prescribed any medications, as per the Medical Report and did not require any specific aids to carry out his daily living activities.

The Ministry noted that the functional abilities described in the Medical Report do not indicate a severe physical impairment. For example, the Appellant could:

- walk 2 to 4 blocks unaided on a flat surface;
- climb 2 to 5 steps unaided;
- lift 2 to 7 kilograms; and
- tolerate sitting for less than 1 hour.

The Ministry noted the functional abilities described by the Doctor, while indicating some impairment, are not, in their sum, consistent with a severe impairment.

The Ministry also pointed to some inconsistencies within the Doctor's report such as the Appellant being capable of lifting up to 7 kilograms but requiring help with lifting.

The Ministry noted that the Doctor wrote that the Appellant takes longer with outdoor walking, climbing stairs, and standing. However, the absence of information about how much longer it takes the Appellant makes it difficult to determine whether these functions are significantly restricted.

With respect to a mental impairment, the Ministry noted that, there was no diagnosed mental impairment in the Medical Report. Likewise, the Doctor noted no impacts to the Appellant's cognitive and emotional functioning and described the Appellant's ability to communicate as good in all facets.

With respect to daily living activities, the Ministry noted that the Appellant is independent in respect of most daily living activities, needing continuous assistance only with carrying purchases home. Again, the Ministry noted that it wasn't clear why the Appellant needed help with this, given his walking and carrying abilities. The Ministry also noted that while there were

several daily living activities with which the Appellant was described as requiring periodic assistance, the Doctor provided no information about the frequency of such assistance.

While the Ministry acknowledged that the Appellant may require rest after walking or standing, there was a lack of information before it, as to how long the Appellant required such rests. In effect, there was insufficient information before the Ministry to establish that the Appellant was unable to function safely in the community. Likewise, there was not sufficient information to establish that the Appellant's social functioning is impacted to a significant degree.

In short, the Ministry argued that the information does not establish that the Appellant's daily living activities are impacted continuously or periodically for extended periods of time.

With respect to the criteria of help being needed, the Doctor did not provide information to indicate that the Appellant required help from another person to a significant degree. Likewise, there was no information before the Ministry to establish that the Appellant required any specific aids or equipment because of any restrictions to daily living activities.

Admissibility of New Evidence

Neither the Appellant nor the Ministry submitted any new documentation in respect of this appeal. However, in their oral submissions, the Appellant and the Appellant's wife referred to information that had not been before the Ministry at the time of the Reconsideration Decision, including evidence about the extent to which the Appellant is reliant on help from his wife and daughter and evidence about the extent of his depression. This information is directly relevant to the matters in issue in this appeal.

The panel admits the new information as evidence that was not before the Ministry at the time of the Reconsideration Decision but which is reasonably necessary for a full and fair disclosure of all matters related to the decision under appeal, pursuant to section 22(4) of the *Employment and Assistance Act*.

Part F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry was reasonable in its determination that the Appellant was not eligible for designation as a PWD. The Ministry was not satisfied that:

- the Appellant had a severe physical impairment;
- in the opinion of a prescribed professional, the Appellant's impairment directly and significantly restricted his ability to perform daily living activities either continuously or periodically, for extended periods; and
- as a result of such restrictions, the Appellant requires help to perform those activities.

*Positions of the Parties*Appellant

The Appellant's position is that he has a severe physical impairment. Although he described himself as being depressed, he did not describe himself as suffering from a severe mental impairment.

The Appellant also argued that he is restricted from carrying out most daily living activities without the help of his wife and daughter.

Ministry

The Ministry's position is that while the evidence indicates that the Appellant is physically impaired, the information does not support a finding that the Appellant is severely impaired physically. The Ministry's position is that the information does not support a finding that the Appellant has a mental impairment.

The Ministry also takes the position that the information does not establish that the Appellant is significantly restricted in his daily living activities either continuously or periodically for extended periods or that he requires help as a result of such restrictions.

*Analysis*Applicable Legislative Requirements

The *Act* sets out the various criteria that must be met in order for a PWD designation to be made. These criteria are set out in section 2(2) of the *Act*.

- a person must be 18 years of age;
- the Ministry must be satisfied that the person has a severe physical or mental impairment;
- the opinion of a nurse or medical practitioner must be that the impairment is likely to continue for at least 2 years;
- the opinion of a prescribed professional must be that the person's daily living activities are directly and significantly restricted continuously or periodically for extended periods; and
- as a result of the person's restrictions, the person requires help to perform daily living activities.

The Ministry had determined in the Reconsideration Decision that the Appellant had met the requirement for age (being 18 years or older) and duration (in that his impairment was likely to last at least two years). As such, the panel will not be addressing them further in these reasons.

Severe Mental or Physical Impairment

"Severe" and "impairment" are not defined in the legislation. The Ministry considers the extent of any impact on daily functioning as shown by limitations with or restrictions on physical abilities and/or mental functions. The panel finds that an assessment of severity based on physical and/or mental functioning, including any restrictions, is a reasonable application of the relevant section of the *Act*. However, by itself, a medical practitioner's description of an applicant's condition or impairment as "severe" is not determinative. The Ministry must make its determination of severity on a consideration of all the relevant evidence and legal principles.

Restriction to Daily Living Activities

The Act requires that a prescribed professional provide an opinion that an applicant's impairment restricts one's ability to perform daily living activities. In the B.C. Supreme Court decision of *Hudson v. Employment and Assistance Appeal Tribunal*, 2009 B.C.S.C. 1461, the court held that at least two daily living activities had to be restricted for the requirements of the Act to be satisfied but that not all of the enumerated activities needed to be restricted.

Section 2(1) of the Regulation specifically references the following daily living activities in respect of persons with a severe physical or mental impairment:

- preparing one's own meals;
- managing personal finances;
- shopping for personal needs;
- using public or personal transportation facilities;

- performing housework to maintain one's place of residence in acceptable sanitary condition;
- moving about indoors and outdoors;
- performing personal hygiene and self care; and
- managing personal medication.

For persons with a severe mental impairment, section 2(1) of the Regulation specifically refers to the following daily living activities:

- making decisions about personal activities, care or finances; and
- relating to, communicating or interacting with others effectively.

The above daily living activities are also referenced in both the Medical Report and the Assessor Report, providing professionals who complete those reports with the opportunity to describe the extent of any restrictions to an applicant's daily living activities and to provide more detail about the restrictions. While the daily living activities in the Medical Report and Assessor Report do not match the daily living activities referenced in the Regulation exactly, they generally cover the same activities.

An applicant's inability to work and financial need are not among the daily living activities referenced in either the Regulation or the Medical Report and Assessor Report and are only relevant to the extent that they have an impact on an applicant's ability to carry out the listed daily living activities.

The restrictions to daily living activities must be significant and caused by the impairment.

The restrictions to daily living activities must also be continuous or periodic for extended periods, as per section 2(2)(b)(i) of the *Act*. Continuous means the activity is generally restricted all the time. A periodic restriction must be for an extended period. This means, generally, that the restriction is either frequent or, if not as frequent, occurs for longer periods of time. This can mean a daily living activity is restricted most days of the week or for an entire day on days where a person cannot perform the daily living activity without help or support. To determine whether a restriction is periodic for extended periods, it is reasonable to look for information on the duration or frequency of the restriction or on the issue of whether the Appellant's disability restricted his activities of daily living continuously or periodically for extended periods.

The term "help" is defined in section 2(3)(b) of the *Act* as one or more of:

- the use of an assistive device;
- the significant help or supervision from another person; or

- the services of an assistance animal.

Application of Legislative Requirements to the Appellant

Severity

With respect to the criteria of severity, the legislation requires that the Ministry be satisfied that an applicant's mental or physical impairment be severe. In the Medical Report and the Assessor Report, the Doctor did not diagnose any mental impairment and indicated that the Appellant's mental and social functioning was not impacted, even noting that the sections of the Assessor Report related to cognitive and emotional functioning were not applicable to the Appellant. In the result, although both the Appellant and the Appellant's wife described the Appellant as having significant depression, the Appellant and his wife were the only sources of evidence about the Appellant having a mental impairment, let alone a significant one. No mental impairment was diagnosed by the Doctor and, as noted earlier, the Doctor did not complete the section of the Assessor Report related to the Appellant's cognitive function, noting that it was not applicable. Likewise, in those portions of the Medical Report and the Assessor Report that were completed by the Doctor, the Doctor indicated that the Appellant's mental and social functioning was unimpaired. In view of this and notwithstanding the oral evidence of the Appellant and his wife, the panel finds that the Ministry reasonably determined that the Appellant does not have a severe mental impairment.

With respect to the Appellant's physical impairment, the Doctor did find that the Appellant's function was impacted by his back injury. Restrictions were noted with respect to walking, climbing, lifting, and remaining seated. However, of the noted functional abilities, the Appellant was noted to be maximally limited only in remaining seated. While the Doctor also noted that there were limits on the Appellant's mobility (for example, the appellant was described as taking significantly longer to walk outdoors, climb stairs, and stand), it was not indicated how much longer (the Doctor had previously noted in the Medical Report that the Appellant could do all of these things with limits).

Ultimately, despite being limited in most functions, the Appellant was nevertheless described by the Doctor as independent in most daily living activities, needing continuous assistance only with carrying purchases home from stores. While the panel accepts that the Appellant does have a physical impairment (as did the Ministry), the panel also finds that the Ministry was reasonable in its finding that the Appellant does not have a *severe* physical impairment.

Restrictions on Daily Living Activities

The Doctor confirmed that there were a number of daily living activities in respect of which the Appellant was restricted. However, it was only in the area of carrying purchases home that the Appellant was described as being continuously restricted.

The legislation requires that a prescribed professional be of the opinion that an applicant is significantly restricted from carrying out daily living activities continuously or periodically for extended periods of time. The *Hudson* case provided that the Appellant needs to demonstrate he is significantly restricted in two areas of daily living activities. In the case of the Appellant, the prescribed professional is the Doctor who completed both the Medical Report and the Assessor Report.

While the Doctor confirmed that the Appellant is continuously restricted from carrying purchases home, for those daily living activities where the Appellant was described as needing periodic assistance from another person, the Doctor has not set out the frequency with which that help is required and the duration for which it is usually required. The absence of this information makes it difficult for the panel to determine whether the opinion of the Doctor is that the Appellant's daily living activities are directly and *significantly* restricted periodically for extended periods of time.

For the above reasons, the panel finds that the Ministry was reasonable in its determination that the Appellant had not satisfied the legislative criteria that required that it be the opinion of a prescribed professional that he is directly and significantly restricted from carrying out daily living activities either continuously or periodically for extended periods of time.

Help

With respect to the criteria of help being required, the legislation also requires that it be the opinion of a prescribed professional that an applicant require help with carrying out daily living activities as a result of any restrictions on an applicant being restricted from carrying out daily living activities. In other words, for the criteria of help being required to be satisfied, there must first be an opinion from a prescribed professional that he or she is directly and significantly restricted from carrying out daily living activities continuously or periodically for extended periods. Where that opinion is not present, as is in the case of the Appellant, the criterion of help being required cannot be satisfied. For this reason, the panel finds that the Ministry was reasonable in its determination that the Appellant had not satisfied the requirement that a prescribed professional opine that he required help to carry out his daily living activities.

Conclusion

Given the analysis provided, the panel finds that the Ministry was reasonable in its determination that the Appellant had not satisfied the legislative requirements of section 2(2) of the Regulation and is not eligible for designation as a PWD.

The Reconsideration Decision is confirmed and the Appellant is not successful in the appeal.

Employment and Assistance for Persons with Disabilities Act

Section 2

Persons with disabilities

2 (1) In this section:

"assistive device" means a device designed to enable a person to perform a daily living activity that, because of a severe mental or physical impairment, the person is unable to perform;

"daily living activity" has the prescribed meaning;

"prescribed professional" has the prescribed meaning.

(2) The minister may designate a person who has reached 18 years of age as a person with disabilities for the purposes of this Act if the minister is satisfied that the person is in a prescribed class of persons or that the person has a severe mental or physical impairment that

(a) in the opinion of a medical practitioner or nurse practitioner is likely to continue for at least 2 years, and

(b) in the opinion of a prescribed professional

(i) directly and significantly restricts the person's ability to perform daily living activities either

(A) continuously, or

(B) periodically for extended periods, and

(ii) as a result of those restrictions, the person requires help to perform those activities.

(3) For the purposes of subsection (2),

(a) a person who has a severe mental impairment includes a person with a mental disorder, and

(b) a person requires help in relation to a daily living activity if, in order to perform it, the person requires

(i) an assistive device,

(ii) the significant help or supervision of another person, or

(iii) the services of an assistance animal.

(4) The minister may rescind a designation under subsection (2).

Employment and Assistance for persons with Disabilities Regulation

Section 2

Definitions for Act

- 2** (1) For the purposes of the Act and this regulation, "**daily living activities**",
- (a) in relation to a person who has a severe physical impairment or a severe mental impairment, means the following activities:
 - (i) prepare own meals;
 - (ii) manage personal finances;
 - (iii) shop for personal needs;
 - (iv) use public or personal transportation facilities;
 - (v) perform housework to maintain the person's place of residence in acceptable sanitary condition;
 - (vi) move about indoors and outdoors;
 - (vii) perform personal hygiene and self care;
 - (viii) manage personal medication, and
 - (b) in relation to a person who has a severe mental impairment, includes the following activities:
 - (i) make decisions about personal activities, care or finances;
 - (ii) relate to, communicate or interact with others effectively.
- (2) For the purposes of the Act, "**prescribed professional**" means a person who is
- (a) authorized under an enactment to practise the profession of
 - (i) medical practitioner,
 - (ii) registered psychologist,
 - (iii) registered nurse or registered psychiatric nurse,
 - (iv) occupational therapist,
 - (v) physical therapist,
 - (vi) social worker,
 - (vii) chiropractor, or
 - (viii) nurse practitioner, or
 - (b) acting in the course of the person's employment as a school psychologist by
 - (i) an authority, as that term is defined in section 1 (1) of the *Independent School Act*, or

(ii) a board or a francophone education authority, as those terms are defined in section 1 (1) of the *School Act*,

if qualifications in psychology are a condition of such employment.

(3) The definition of "parent" in section 1 (1) applies for the purposes of the definition of "dependent child" in section 1 (1) of the Act.

Section 2.1

Alternative grounds for designation under section 2 of Act

2.1 The following classes of persons are prescribed for the purposes of section 2 (2) [*persons with disabilities*] of the Act:

- (a) a person who is enrolled in Plan P (Palliative Care) under the Drug Plans Regulation, B.C. Reg. 73/2015;
- (b) a person who has at any time been determined to be eligible to be the subject of payments made through the Ministry of Children and Family Development's At Home Program;
- (c) a person who has at any time been determined by Community Living British Columbia to be eligible to receive community living support under the *Community Living Authority Act*;
- (d) a person whose family has at any time been determined by Community Living British Columbia to be eligible to receive community living support under the *Community Living Authority Act* to assist that family in caring for the person;
- (e) a person who is considered to be disabled under section 42 (2) of the *Canada Pension Plan* (Canada).

2024-0290

Part G – Order

The panel decision is: (Check one) Unanimous By Majority

The Panel Confirms the Ministry Decision Rescinds the Ministry Decision

If the ministry decision is rescinded, is the panel decision referred back
to the Minister for a decision as to amount? Yes No

Legislative Authority for the Decision:

Employment and Assistance Act

Section 24(1)(a) or Section 24(1)(b)

Section 24(2)(a) or Section 24(2)(b)

Part H – Signatures

Print Name

Adam Shee

Signature of Chair

Date (Year/Month/Day)

2024/09/03

Print Name

Connie Simonsen

Signature of Member

Date (Year/Month/Day)

2024/09/03

Print Name

Perihan Sucu

Signature of Member

Date (Year/Month/Day)

2024/09/03